IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

-

WRIT PETITION NO : 36551 of 1998

Between:

Smt. P.Catherine Krupamma, W/o.Sri C.Joseph,

Social Studies Asst., Luthern High School,

Koyakannapuram, West Godavari District.

..... PETITIONER

AND

1. The District Educational Officer, Eluru, West Godavari District.

2. The Correspondent, P.Vidya Sagar Samuel,

C/o. P.Samuel, Advocate, Dr.No.23-A-3-84,

Ramachandrapuraopet, Eluru, West Godavari District.

3. The Head Master, M.S.J.Roy, Luthern High School,

Koyakannapuram, West Godavari District.

4. The President, A.E.L.Church, Guntur – 2 and District.

5. The Chairman, Board of Secondary Education,

A.E.L. Church, Guntur.

6. Mr. K.R.Subhaji, Luthern High School,

Bhimavaram, West Godavari District.

7. The Principal Secretary to Government, Education Department,

Government of Andhra Pradesh, Hyderabad.

(R.7 is impleaded as per Court order dt.06-08-2004 in

W.P.No.8820 of 1998 and batch).

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate Writ petition declaring the action of the respondents 1, 2 and 3 in withholding her salary for the months of September, October and November, 1998 as arbitrary, illegal and unconstitutional and issue a consequential direction to forthwith pay the arrears of salary and continue to pay the salary to her.

Counsel for the Petitioner: MR. J.JAYANAND & MR. K.ANANDA RAO

Counsel for Respondents 1, 5 and 7: GOVERNMENT PLEADER FOR SCHOOL EDUCATION

Counsel for Respondents 2 and 3: None appeared

Counsel for Respondent No.4: MR. V.JAGAPATHI

Counsel for Respondent No.6: MR. V.JOGAIAH SARMA

The Court made the following:

ORDER:

This writ petition is filed seeking a declaration that the action of respondents 1 to 3 in withholding petitioner's salary for the months of September, October and November, 1998 as arbitrary, illegal and unconstitutional and to issue a consequential direction to forthwith pay the arrears of salary and continue to pay the salary to her.

The grievance of the writ petitioner is that when she worked as B.Ed. Assistant (Social Studies) in Lutheran High School, Koyakannapuram, Koyyalagudem Mandal, West Godavari District, she was paid salary only from the month of December, 1998 and the salary for the period from 01-09-1998 to 30-11-1998 was denied on the ground that Respondent No.6 herein had filed O.S.No.578 of 1998 on the file of the Principal Junior Civil Judge, Kovvur, West Godavari District, and obtained interim injunction against the respondents not to disturb him from the school in which he was working. However, the said suit ended in withdrawal. It is an admitted fact that in view of the injunction order granted by a competent Civil Court, the authorities were prevented in engaging the petitioner herein as B.Ed. Assistant (Social Studies) in Lutheran High School, Koyakannapuram and paying salary for the period from 01-09-1998 to 30-11-1998.

Be that as it may, after attaining the age of superannuation, the petitioner retired from service with effect from 31-08-2003. Now, it is the contention of the learned Counsel for the petitioner that though she retired on 31-08-2003, her pension and other benefits are not settled on the ground that the present writ petition is pending before this Court.

I am of the considered opinion, the pendency of this writ petition ought not to have come in the way of the respondents since the claim of the petitioner does not fall within one year preceding the date of retirement of the petitioner. For the purpose of pension, the salary drawn by candidate for the last ten months, preceding the date of retirement, is taken into consideration. Nonetheless, since the petitioner claims that the period from 01-09-1998 to 30-11-1998 was not regularized for the purpose of pension, the authorities are not able to take any decision to settle the pension of the petitioner.

In view of the above, the respondents are directed to regularize the period between 01-09-1998 to 30-11-1998 as per rules and settle pensionary benefits of the petitioner within three months thereafter. It is needless to mention that the petitioner is not entitled for salary for the period from 01-09-1998 to 30-11-1998.

The writ petition is disposed of accordingly. The petitioner is at liberty to file a fresh representation as to her claim both for the purpose of regularizing the period from 01-09-1998 to 30-11-1998 and also the pensionary benefits.

_____

C.V.RAMULU, J

15th June, 2005.

Ak

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The District Educational Officer, Eluru, West Godavari District.

2. The Chairman, Board of Secondary Education, A.E.L.Church, Guntur.

3. The Principal Secretary to Government, Education Department,

Government of Andhra Pradesh, Hyderabad.

4. Two CCs to the Government Pleader for School Education,

High Court Buildings, Hyderabad (O.U.T).

5. The Correspondent, P.Vidya Sagar Samuel, Dr.No.23-A-3-84,

Ramachandraraopet, Eluru, West Godavari District.

6. The Head Master, Ms J.Roy, Lutheran High School,

Koyakannapuram, Koyyalagudem Mandal, West Godavari District.

7. Two CD copies.